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 Plaintiff VENICE STAKEHOLDERS
 ASSOCIATION

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

LA ALLIANCE FOR HUMAN
 RIGHTS, et al.

Plaintiffs,

vs.

CITY OF LOS ANGELES, et al.,

Defendants.

) Case No.: 20-CV-02291-DOC-KES
)
) **PROPOSED INTERVENOR-**
) **PLAINTIFF’S EX PARTE**
) **APPLICATION FOR LEAVE TO**
) **INTERVENE AS ADDITIONAL**
) **PLAINTIFF**
)
) Date:
) Time:
) Crtm: 1 (1st Street Federal Courthouse)

Hon. David O. Carter
 Courtroom 1

Complaint Filed: March 10, 2020

TO ALL ATTORNEYS OF RECORD, pursuant to Local Rule 7-19,
 Proposed Intervenor-Plaintiff Venice Stakeholders Association (“VSA”) files this
 ex parte application to allow VSA to intervene as an additional plaintiff, participate
 in this action, and participate in status conferences.

EX PARTE APPLICATION



1 Counsel for VSA advised counsel for plaintiffs, the City of Los Angeles and
 2 the County of Los Angeles by email on April 10, 2020 regarding this application.
 3 Attorney Elizabeth Mitchell representing Plaintiffs LA Alliance for Human Rights,
 4 Charles Malow, Charles Van Scoy, Gary Whitter, George Frem, Harry Tashdjian,
 5 Joseph Burk, Karyn Pinsky, and Leandro Suarez expressed that she did not oppose
 6 the application. There is no indication of the remaining parties' positions to date
 7 regarding the ex parte application.

8 This ex parte application is based on the complaint, the Memorandum of
 9 Points and Authorities below, the argument of counsel, and such further evidence as
 10 the Court may consider regarding this Application.

11 Pursuant to Local Civil Rule 7-19, VSA provides the following information:

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DATED: April 14, 2020

JEFF LEWIS LAW

By: s/ Jeffrey Lewis

Jeffrey Lewis
Sean C. Rotstan

Attorneys for Proposed Intervenor-
Plaintiff VENICE STAKEHOLDERS
ASSOCIATION

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. Summary of Relief Sought**

3 Proposed Intervenor-Plaintiff Venice Stakeholders Association (“VSA”) files
4 this ex parte application to intervene. Plaintiff filed this action on March 10, 2020.
5 VSA previously applied, ex parte, for leave to participate in this action as an amicus
6 party (Doc. 45). That application was denied. (Doc. 57). VSA now seeks to
7 intervene as a plaintiff.

8 This current action, brought by the Los Angeles Alliance for Human Rights
9 (“LA Alliance”) an unincorporated association made up primarily of business
10 owners in Downtown Los Angeles, seeks to have this court issue orders to compel
11 the City and County of Los Angeles to take actions regarding homelessness that
12 could greatly impact property owners, property renters and the homeless in all areas
13 of Los Angeles County, not just downtown Los Angeles. VSA has a direct and
14 tangible interest in this litigation that will be necessarily impaired if the existing
15 Plaintiffs settle this case, prevail after trial or do not prevail. The complaint on file
16 in this action and this Court’s future orders potentially impact all areas within Los
17 Angeles County including the Venice district of Los Angeles. The prayer for relief
18 in the complaint includes a prayer for injunctive relief. If this Court issues (or
19 withholds) injunctive relief pursuant to a trial or settlement, that relief will
20 necessarily affect the provision of services to the homeless in Venice and that, in
21 turn, will impact the quality of life of Venice residents, both property owners and
22 renters. VSA is comprised of property owners and renters who live within Venice
23 and are directly impacted by the homeless and the City and County’s efforts to
24 address the needs of the homeless. VSA seeks to intervene for purposes of helping
25 the Court fashion injunctive and declaratory relief. VSA disclaims all interest in any
26 awards of damages.



II. Background

A. Proposed Intervenor

VSA, founded in 2009, is a nonprofit organization dedicated to civic improvement. The VSA supports slow growth, the limits of the Venice Local Coastal Specific Plan, neighborhood safety, better traffic circulation, increased parking for residents, neighborhood beautification projects, historic preservation, habitat restoration and protection of coastal waters. Representing residents in the Venice district of the City of Los Angeles, California, the VSA has grappled with the horrendous impact of the increase of the homeless population in Venice from approximately 400 persons in 2014 to 1,100 persons now, as documented by the Los Angeles Homeless Services Authority's annual homeless count.

The VSA provides research, education, advocacy and litigation support for Venice Beach residents to ensure that their voices are heard. VSA is presently in litigation against the City of Los Angeles, the California Coastal Commission and the Los Angeles County Metropolitan Transportation Authority over the erection of a 154-bed homeless shelter complex in violation of the California Environmental Quality Act, *VSA v. City of Los Angeles*, Case No. 19STCP00044 and *VSA v. Los Angeles County Metropolitan Transportation Authority*, Case No. 19STCP00629.¹

III. Proposed Intervenor is Entitled to Intervene as a Matter of Right

Federal Rules of Civil Procedure 24(a) provides that a party “who claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest” must be allowed to intervene in a case

¹ Those cases are presently under discretionary writ review by the California Court of Appeal, Second District, *Venice Stakeholders Association v. Superior Court of Los Angeles County*, Case Number B304424.



1 “unless existing parties adequately represent that interest.” (Fed. R. of Civ. Proc.
2 24(a)(2)).

3 To be granted intervention as a matter of right, the Proposed Intervenor must
4 demonstrate that 1) it has a “significant protectable interest” relating to the matter
5 that is the subject of the action; 2) a decision in the action may, as a practical
6 matter, impair or impede the Proposed Intervenor’s ability to protect its interest; 3)
7 the request to intervene is timely; and 4) the existing parties may not adequately
8 represent proposed Intervenor’s interest. (*Donnelly v. Glickman*, 159 F.3d 405, 409
9 (9th Cir. 1998)). “Though the applicant bears the burden of establishing these
10 elements, we have repeatedly instructed that ‘the requirements for intervention are
11 [to be] broadly interpreted in favor of intervention.’” (*Smith v. Los Angeles Unified*
12 *School District*, 830 F.3d 843, 853 (9th Cir. 2016)). VSA satisfies each of these
13 prongs.

14 **A. VSA has a Significant Protectable Interest in This Litigation**

15 Rule 24(a) does not require that the protectable interest at stake in the
16 litigation be a specific legal or equitable interest.

17 The ‘interest’ test is not a clear-cut or bright-line rule, because no
18 specific legal or equitable interest need be established. Instead, the
19 ‘interest’ test directs courts to make a practical, threshold inquiry, and
20 is primarily a practical guide to disposing of lawsuits by involving as
many apparently concerned persons as is compatible with efficiency
and due process.

21 (*In re Estate of Ferdinand E. Marcos Human Rights Litigation*, 536 F.3d 980, 984–
22 85 (9th Cir. 2008)(quoting *S. Cal. Edison Co. v. Lynch*, 307 F.3d 794, 802 (9th
23 Cir.2002)).

24 As set forth in the accompanying declaration of VSA’s president, Mark
25 Ryavec, VSA has a legally protectible interest in the outcome of this case. VSA
26 provides research, education, advocacy and litigation support for Venice Beach
27 residents to ensure that their voices are heard. (Ryavec Decl. ¶ 12). VSA, founded
28 in 2009, is a nonprofit organization dedicated to civic improvement. The VSA



1 supports slow growth, the limits of the Venice Local Coastal Specific Plan,
 2 neighborhood safety, better traffic circulation, increased parking for residents,
 3 neighborhood beautification projects, historic preservation, habitat restoration and
 4 protection of coastal waters. (Ryavec Decl. ¶ 10).

5 **B. A Decision in this Action May Impair VSA’s Ability to Protect it**
 6 **Property and Other Interests in the Venice Area**

7 To satisfy the second prong of the test for intervention as a matter of right,
 8 VSA must show that “the disposition of this case will, as a practical matter, affect”
 9 the interest at stake. (*California ex Rel. Lockyer v. U.S.*, 450 F.3d 436, 442 (9th Cir.
 10 2006)). Again, as with all of the factors VSA “need not demonstrate that their
 11 interest would be impaired in a legal sense, only that their interest ‘would be
 12 substantially affected in a practical sense.’” (*Sw. Ctf. for Biological Diversity v.*
 13 *Berg*, 268 F.3d 810, 822 (9th Cir.) (quoting Fed. R. Civ. P. 24, Advisory
 14 Committee Notes)). Here, the remedy sought by the existing Plaintiffs will directly
 15 impact the quality of life of the renters and homeowners who comprise VSA and
 16 live in Venice. (See Ryavec Decl., ¶¶ 14-20).

17 **C. The Request is Timely**

18 VSA’s request is timely. A motion made “at an early stage of the
 19 proceedings” will generally satisfy the timeliness requirement. (See *Citizens for*
 20 *Balanced Use v. Mont. Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011)). This
 21 case was filed in March and this application was filed the following month, April.
 22 A prior request for modest participation as an amicus party was denied.

23 **D. Existing Parties May Not Represent VSA’s Interests**

24 Finally, the parties in this case simply cannot adequately represent VSA’s
 25 interests. Whether another party’s representation of Applicants’ interests is
 26 adequate depends on: “(1) whether the interest of a present party is such that it will
 27 undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present
 28 party is capable and willing to make such arguments; and (3) whether a proposed



1 intervenor would offer any necessary elements to the proceeding that other parties
 2 would neglect.” (*Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003)). The
 3 burden to show that a party’s interests may not be adequately represented is minor:
 4 “The requirement of the Rule is satisfied if the applicant shows that representation
 5 of his interest ‘may be’ inadequate; and the burden of making that showing should
 6 be treated as minimal.” (*Trbovich v. United Mine Workers of America*, S. 528, 538
 7 (1972)).

8 **i. Differences between the Alliance and VSA as to Potential**
 9 **Settlement**

10 Due to the long history of disruption of the Venice community by this large,
 11 unruly and occasionally dangerous population, prior to the filing of this lawsuit,
 12 VSA had discussions about joining the Alliance. In those discussions, VSA asked
 13 for an agreement that any new facilities that might be developed pursuant to a
 14 settlement of the Alliance suit not be placed within 200 feet of any residences or
 15 schools. The Alliance’s counsel declined to give that assurance to VSA and thus,
 16 while VSA supports many of the Alliance’s causes of action, VSA could not join
 17 the suit as a co-plaintiff.

18 **ii. Differences Between the Alliance and VSA as to LAMC 41.18**

19 Los Angeles Municipal Code section 41.18 prohibits lying, sitting and
 20 sleeping on public rights-of-way. VSA supports amendments to Section 41.18
 21 proposed by City Councilman Mitchell O’Farrell and the Venice Neighborhood
 22 Council that would be more restrictive regarding minimum distances of the
 23 homeless camping from residences, parks, and schools than is the current city
 24 practice. The Alliance’s lead counsel has advised the VSA that the Alliance does
 25 not support the O’Farrell/VNC amendments. VSA has concerns that any settlement
 26 of this lawsuit may impact the interpretation or enforcement of Section 41.18 in a
 27 manner that does not adequately address the burden that the current city
 28 interpretation of pertinent lawsuits places on Venice residents.



E. VSA's Concerns Regarding How Homeless are Housed During Pandemic

VSA urges the Court to order the city and county of Los Angeles to focus all temporary housing for the homeless on structures, buildings and single-occupancy tents, installed off-street, that allow for ample and enforceable self-quarantine. The City of Los Angeles is currently re-purposing city recreation centers for use as temporary shelters for the homeless. While the concept of converting recreation centers to shelters appears appropriate in this crisis, it is contraindicated by the nature of the population itself. (See Ryavec Decl., ¶¶ 14-20.)

IV. VSA Should be Allowed Permissive Intervention

Even if VSA is not entitled to intervene as a matter of right, it should be allowed to intervene under the Court's authority pursuant to Rule 24(b), which allows permissive intervention when "an applicant's claim or defense and the main action have a question of law or fact in common." (Fed. R. Civ. P. 24(b)(1)(B)).² Permissive intervention is in the "broad discretion of the trial court." VSA represents interests in this case that are not otherwise represented insofar as they represent a different geographic region, Venice, and the renters and homeowners in Venice have different needs than the business owners in downtown Los Angeles.

One of the factors to be considered by the court is "whether [the] part[y] seeking intervention will significantly contribute to full development of the underlying factual issues." (GOJO, 2018 WL 5880829, at *9 (C.D. Cal. Apr. 2, 2018)). VSA is actively engaged with the community and local officials pertaining to homeless issues and balancing property rights against the rights of the homeless.

² On March 17, 2020, this Court granted intervention to Orange County Catholic Worker, the lead plaintiff in *Orange County Catholic Worker, et al. v. County of Orange*, 18-CV-00155-DOC-JDE ("OCCW"). On March 18, 2020, this Court granted intervention by LA CAN and LACW. (Doc. 29.)

1 At this stage of the litigation, the court has the discretion to allow VSA to intervene
2 in the lawsuit as permissive intervenor.

3
4 **V. Conclusion**

5 Based on the foregoing, VSA respectfully requests that the Court grant the
6 application. VSA's president, Mark Ryavec, is available to personally or
7 telephonically attend any proceedings at the invitation of the Court.

8
9
10 DATED: April 14, 2020

JEFF LEWIS LAW

11
12 By: s/ Jeffrey Lewis

13 Jeffrey Lewis
14 Sean C. Rotstan

15 Attorneys for Proposed Intervenor-
16 Plaintiff VENICE STAKEHOLDERS
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